

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|-------------------------------------|-------------------------|
| In re | Chapter 11 |
| DELPHI CORPORATION, <u>et al.</u> , | Case No. 05-44481 (RDD) |
| Debtors. | (Jointly Administered) |
| | ON SUBMISSION OF PAPERS |

RESPONSE TO OBJECTION TO CLAIM

Robert J. Dubin pursuant to Federal Rule of Civil Procedure Rule 11, and under penalty of perjury, hereby affirms as follows:

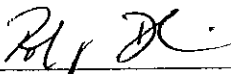
1. I am an attorney at law duly licensed to practice in the State of New York and a member of the firm of Dubin & Sommerstein, LLP.
2. I am fully familiar with the facts and circumstances of the claim of Buffalo Check Cashing herein.
3. That I make this affirmation in support of the Proof of Claim submitted on behalf of Buffalo Check Cashing Company which has been identified as claim number 3026.
4. That your affirmant obtained an objection to claim from the office of Skadden, Arps, Slate, Meagher & Flom, LLP on November 6, 2006, after being advised by a representative of said office that this claim would be accepted.
5. That this claim is likely identified as "unsubstantiated" because Delphi takes the position that it reissued the check to the payee, which was cashed.

6. That the position of Buffalo Check Cashing Company is that they are a "holder in due course" and still have a valid secured claim on the basis of the grounds set forth in my October 18, 2005 letter to Julie L. McDonald at Delphi Automotive Systems which is incorporated herein by reference. A copy of said letter is attached hereto as Exhibit A.

7. A copy of the underlying check which was cashed as a holder in due course by Buffalo Check Cashing Company without knowledge of the stop payment order is attached hereto as Exhibit B.

WHEREFORE, your affirrant respectfully requests this Court deny the debtor's objection to the claim and that claim number 3026 of creditor, Buffalo Check Cashing Inc. be allowed as fully secured.

Dated: November 22, 2006



Robert J. Dubin

TO: United States Bankruptcy Court
for the Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York, NY 10004-1408

Delphi Corporation
5725 Delphi Drive
Troy, Michigan 48098

Skadden, Arps, Slate,
Meagher & Flom, LLP
Attorneys at Law
333 West Wacker Drive, Ste. 2100
Chicago, Illinois 60606

Office of the United States Trustee
Southern District of New York
33 Whitehall Street, Ste. 2100
New York, NY 10004

DUBIN & SOMMERSTEIN, LLP

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14 LAFAYETTE SQUARE
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ROBERT B. SOMMERSTEIN

COUNSEL
MARVIN T. DUBIN

ROBERT J. DUBIN

Via Facsimile to
1-(248)-813-2815
and U.S. Mail

October 18, 2005

Delphi Automotive Systems
5725 Delphi Drive
Troy, MI 48098-2815

Attn: Julie L. McDonald

Re: Your Check No. 0232315
Amount: \$984.35
Date: 08/31/05
Payee: Nicole Baugh

Dear Ms. McDonald:

Please be advised that this firm represents Buffalo Check Cashing, Inc. Our client is a duly licensed check cashing business subject to the banking laws and regulations of the State of New York. Please be further advised that Buffalo Check cashing is a "holder in due course" of the above-referenced check issued by Delphi on August 31, 2005 in the amount of \$984.35 (copy enclosed). The payee, Nicole Baugh, presented the aforesaid check to Buffalo Check Cashing, Inc. on August 29, 2005. Therefore, our client, after obtaining proper endorsement from the payee, cashed the check. The check was then immediately deposited to our client's account, however, this check was subsequently dishonored.

This check was recently dated, the payee properly endorsed same, and the payee's identity was verified by Buffalo Check Cashing, Inc. Therefore, Buffalo Check Cashing, Inc. intends to exercise the full extent of its rights as a "holder in due course" under §3-302 and §3-304 of the Uniform Commercial Code. By drawing the above-described check, Delphi contracted to pay the full amount thereof upon dishonor in accordance with §3-413 of the Uniform Commercial Code. Although you may issue a "stop payment" order in accordance with §4-403 of the Code, you nonetheless remain liable on the instrument to Buffalo Check Cashing, Inc. as a "holder in due course" since

DUBIN & SOMMERSTEIN, LLP

October 18, 2005

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the instrument was taken for value, in good faith, and without any notice of any other claim or defense to the instrument.

Our client acted with absolute due diligence in making payment upon your validly issued check. Buffalo Check Cashing, Inc. therefore makes claim against Delphi, as drawer of the aforesaid check for full payment in the amount of \$984.35, based upon the authority of the Uniform Commercial Code of the state of New York, §3-302, §3-305, §4-413 and the commentary to §4-403. I have also enclosed a copy of the subject check. Please forward payment to this office at your earliest opportunity on behalf of our client, Buffalo Check Cashing, Inc. If you wish to discuss this matter in more detail, please do not hesitate to contact me.

Very truly yours,

DUBIN & SOMMERSTEIN, LLP



By: Robert J. Dubin

RJD/sp

Enclosure

cc: Buffalo Check Cashing, Inc.

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

DELPHI
DETROIT, MI 48202

NO. 0232315

76-1292
724

DELPHI

Issue Date: 08/31/2005
Not valid after 90 days from date

PAY: NINE HUNDRED EIGHTY-FOUR DOLLARS AND THIRTY-FIVE CENTS

Amount:

*****984.35

To the
order of: NICOLE BAUGH

330285

PAYMENT STOPPED

Delphi

PAYABLE THROUGH:
MORGAN CHASE

⑈0232315⑈ ⑆072412927⑆

644256⑈

⑈0000098435⑈

BANK ONE, NA
074909962
00312005

3430470447

BANK ONE, NA
074909962
09012005

3220616117

PAY TO THE ORDER OF MT BANK
BUFFALO CHECK CASHING INC.
LICENSED CASHIER OF CHECKS
10-4 MT BANK A/C#983848914
04:56 PM MON AUG 29, 2005
UNIT 0 TELLER 117
CHECK
FEE CHARGED \$15.26 AMT \$984.35

MT BANK NA/300
#221370624 DLT
800-528-498

09022005

0840-0002-6

DO NOT WRITE STAMP OR SIGN BELOW CASH LINE

001579107

Nicole Baugh
67 Leiman St Bldg NY
14204